IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 12582 of 1995

Between:

Sri Jasti George Rao, S/o.Subbanna,

Aged 40 years, R/o.Vedullagunta,

West Godavari District.

.... PETITIONER

AND

The Branch Manager,

State Bank of India, A.D.M.,

Prekkilanka,

Tollapudi Mandal, W.G.District. **.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the action of the respondent Bank is illegal, arbitrary and without any authority after issuing an order or orders, direction or directions, writ of writs, particularly one in the nature of Writ of Mandamus and consequently direct the respondent to release the Gold Offered as security for the loan No.AG/11/892.

Counsel for the Petitioner:MR.K.L.N.SWAMY

Counsel for the Respondent : MR.K.GOPALA KRISHNA MURTHY

(not present)

The Court made the following :

O R D E R :

The petitioner states that he obtained a loan of Rs.6,500/- by pledging his gold ornaments weighing 4.8 sovereigns in the year 1993. It is his case that though he discharged the loan amount and requested the respondent to release the gold ornaments, the respondent has not released them on the ground that he has another loan to be discharged. When the respondent took steps to put the gold ornaments to auction, the petitioner filed this Writ Petition.

The Writ Petition was filed in the year 1995. The petitioner obtained interim stay of auction on 23-06-1995.

Heard the learned counsel for the petitioner. None appears for the respondent. No counter is filed even though the Writ Petition was admitted and interim order obtained as long back as on 23-06-1995. On 05-08-2004, when the matter came up, none appeared for the petitioner and it was directed to be listed for dismissal today. However, no counter is filed today.

Inasmuch as, no counter is filed refuting the allegations made by the petitioner in the affidavit filed in support of the Writ Petition, it should be presumed that the grievance of the petitioner projected in the Writ Petition is true and correct, and the respondent has no case to defend. Therefore, taking the averments made by the petitioner in the Writ Petition to be true and correct, this Court in the absence of any counter, has no other alternative but to allow the Writ Petition as prayed for.

Accordingly, the Writ Petition is allowed. The respondent is directed to release the gold ornaments pledged by the petitioner, if the loan amount in respect of it he had pledged the gold ornaments, is discharged without reference to any other loan account. No costs.

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(N.V.RAMANA)

6th day of August, 2004

ksr/prv

To

1 The Branch Manager,

State Bank of India, A.D.M.,

Prekkilanka,

Tollapudi Mandal, W.G.District.

2. 2 CD copies